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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,160	04/14/2004	Paul E. Carpenter	NTR-001	8171

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EXAMINER

ALLEN, WILLIAM J

ART UNIT	PAPER NUMBER
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3625

MAIL DATE	DELIVERY MODE
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09/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,160

Applicant(s)

CARPENTER ET AL.

Examiner

William J. Allen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

Claims 1-26 are pending and rejected as set forth below.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/9/07 has been entered.

Response to Arguments

Applicant's arguments filed 7/9/2007 have been fully considered but they are not persuasive. In an attempt to further clarify the Examiner's position, the following is noted:

Henson teaches where products from vendors such as Intel, Iomega, Microsoft, Harman/Kardon, APC, HP, and the like are bundled with products such as computer towers and monitors from Dell (first and second vendors respectively). The system of Henson further provides an offer for sale to the customer, and allows the customer to create and purchase a customized bundle. In other words, the customer purchases from the system/site of Henson, the second vendor.

Silva, then, teaches the necessary relationship between multiple vendors and provides information regarding a contractual relationship between the affiliated vendors. When a transaction, such as purchasing of a bundle, is completed in Silva, the merchant site pays a percentage of the purchase made to the affiliate site, and thereby provides a financial incentive. Additionally, since that percentage is based on the transaction (i.e. purchased bundle), it thereby constitutes information about the transaction (i.e. virtual bundle purchased) and information about the incentive offered to the affiliate site by the merchant site.

Lastly, PTO 892 U teaches Future Shop Ltd., an electronic retailer that allows shoppers to make PC's there own way. Future Shop provides Internet-enabled kiosk in their retail venues to allow customers to build customized computer systems including hardware, software, and peripherals. (See below rejection under 35 USC 103 for citations).

It is hereby asserted that, when taken in combination, one of ordinary skill in the art would have recognized the claimed invention as an obvious combination of the references provided. Therefor, the rejection as set forth previously is maintained.

Additionally, In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-9, 15-18, 20-22, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (6,167,383) in view of Silva et al. (US 2001/0034658) in further view of PTO 892 reference U.**

Regarding claim 1, Henson teaches:

a. providing information from a first vendor to a second vendor about items available from the first vendor that are available for inclusion within items offered by the second vendor to a consumer for purchase at retail as a virtual bundle of items (see at least: Fig. 3A-5); The Examiner notes that products from vendors such as Intel, Iomega, Microsoft, Harman/Kardon, APC, HP, and the like are bundled with products such as computer towers and monitors from Dell (first and second vendors respectively);

c. communicating an offer by the second vendor to a consumer for the purchase at retail of a virtual bundle of items from those items available for inclusion within the virtual bundle (see at least: Fig. 6-10, abstract, col. 4 lines 36-52);

d. allowing the consumer to create and purchase at retail a virtual bundle of items from those items available for inclusion within the virtual bundle (see at least: Fig. 1-10, abstract, col. 4 lines 36-52); The Examiner notes that the customized computer system is a bundle.

Henson teaches all of the above as noted and further teaches a customization web site featuring products from outside manufacturers (see at least: Fig. 1-5). Henson, however, does not expressly teach *b. providing information from the first vendor to the second vendor about an incentive offered by the first vendor to the second vendor based on the virtual bundle of items purchased by the consumer; e. providing information about the virtual bundle of items purchased by the consumer to the first vendor and the second vendor; and f. providing an incentive from the first vendor to the second vendor based on the virtual bundle of items purchased by the consumer.* Silva teaches a system for selling bundles of multiple items through the use of electronic shopping lists (see at least: abstract). Silva further teaches:

b. providing information from the first vendor to the second vendor about an incentive offered by the first vendor to the second vendor based on the virtual bundle of items purchased by the consumer (see at least: abstract, 0003-0004, 0006);

e. providing information about the virtual bundle of items purchased by the consumer to the first vendor and the second vendor (see at least: abstract, 0003-0004, 0017, 0025-0026); and

f. providing an incentive from the first vendor to the second vendor based on the virtual bundle of items purchased by the consumer (see at least: abstract, 0003-0004, 0006). The

Examiner notes that an affiliate site acts as a referring site for the associate merchant site (i.e. first and second vendors). When a transaction, such as purchasing of a bundle, is completed the merchant site pays a percentage of the purchase made to the affiliate site, and thereby provides a financial incentive. Additionally, since that percentage is based on the transaction (i.e. purchased bundle), it thereby constitutes information about the transaction (i.e. virtual bundle purchased) and information about the incentive offered to the affiliate site by the merchant site. It

would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson to have included *b. providing information from the first vendor to the second vendor about an incentive offered by the first vendor to the second vendor based on the virtual bundle of items purchased by the consumer; e. providing information about the virtual bundle of items purchased by the consumer to the first vendor and the second vendor; and f. providing an incentive from the first vendor to the second vendor based on the virtual bundle of items purchased by the consumer* as taught by Silva in order to provide merchandising that is financially beneficial to the of both the merchant and an affiliate of the merchant (i.e. first and second vendors) by providing an external source of potential customers who are already viewing material directly related to the merchant and an additional source of income to an affiliate of the merchant (see at least: Silva, 0003).

Additionally, though Henson teaches all of the above, Henson does not expressly teach where a consumer creates and purchases the virtual bundle *at a physical retails establishment*. In the same field of endeavor, PTO 892 U teaches Future Shop Ltd., an electronic retailer that allows shoppers to make PC's there own way (see at least: Paragraphs 1-2). Future Shop provides Internet-enabled kiosk in their retail venues to allow customers to build customized computer systems including hardware, software, and peripherals (see at least: Paragraphs 3 and 5). Thereby, PTO 892 U teaches consumers creating and purchasing the bundled computer systems including peripherals *at a physical retails establishment*. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson to have included where a consumer creates and purchases the virtual bundle *at a physical retails*

establishment as taught by PTO 892 U in order to provide a system that allows physical retail establishments to fully meet the needs of in-store customers by allowing store associates to interact with customers who may not be as familiar with computers (see at least: PTO 892 U, Paragraphs 7 and 12).

Regarding claims 2-8, Henson in view of Silva in further view of PTO 892 U teaches:

(2) *wherein the first vendor is the manufacturer of the items available for inclusion within the virtual bundle of items* (see at least: Henson, Fig. 3A-5).

(3) *wherein the second vendor is a customer of the manufacturer* (see at least: abstract, Fig. 3A-5).

(4) wherein the items are identified by a unique identification code (see at least: Henson, Fig. 3A-5). The Examiner notes the use of product identifiers unique to each products as 'unique identification codes'.

(5) *wherein the items are products, services, or combinations thereof* (see at least: Henson, Fig. 3A-5).

(6) *wherein the offer by the second vendor to the consumer is communicated through in-store advertising*. Myr teaches *wherein the offer by the second vendor to the consumer is communicated through in-store advertising* (see at least: PTO 892 U, Paragraphs 1-3, 5, and 12)

(7) wherein the consumer is given an incentive for purchasing the virtual bundle of items (see at least: Henson, Fig. 3A-5). The Examiner notes that each component/product provides a description for purchasing that component/product with the bundle (e.g. a larger hard drive provides more storage). Incentive is also provided to purchase a certain system (e.g. the XPS R is

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built with “performance and reliability in mind”). Furthermore, the ability to lease a bundle provides a financial incentive to the consumer to purchase the bundle.

(8) *wherein the second vendor receives a financial incentive each time a consumer purchases a virtual bundle of items in a single market basket transaction* (see at least: Henson, col. 4 lines 36-52, col. 6 lines 39-43, col. 7 lines 39-48, col. 10 lines 7-18). The Examiner notes that by selling the customer configured systems (i.e. the bundled items for purchase), and further by providing items to be added on, the selling vendor receives a financial incentive by receiving revenue from the sale of the configured system/bundled items. Additionally, add-ons increase the revenue and provide an additional financial incentive to bundle additional items.

Regarding claim 9, Henson teaches all of the above as noted but does not expressly teach *wherein information about the items available from the first vendor for inclusion in a virtual bundle is posted on a server*. Silva teaches *wherein information about the items available from the first vendor for inclusion in a virtual bundle is posted on a server* (see at least: Silva, 0025-0026, Fig. 1 and 4). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson to have included *wherein information about the items available from the first vendor for inclusion in a virtual bundle is posted on a server* as taught by Silva in order to provide merchandising that is financially beneficial to the of both the merchant and an affiliate of the merchant (i.e. first and second vendors) by providing an external source of potential customers who are already viewing material directly related to the merchant and an additional source of income to an affiliate of the merchant (see at least: Silva, 0003).

Regarding claims 15, 20, and 26, these claims closely parallel the limitations of claim 1 (and claim 6 for claim 15). Claims 15, 20, and 26 are thereby rejected for at least the rationale regarding the claim 1 and its dependents rejected above.

Regarding claims 16 -18, Henson in view of Silva in further view of PTO 892 U further teaches:

(16) *wherein the first vendor is the manufacturer of the items available for inclusion in the virtual bundle of items* (see at least: Henson, Fig. 3A-5).

(17) *wherein the second vendor and the consumer receive a financial incentive each time the consumer purchases a virtual bundle of items in a single market basket transaction* (see at least: Henson, Fig. 3A-5, col. 4 lines 36-52, col. 6 lines 39-43, col. 7 lines 39-48, col. 10 lines 7-18). The Examiner notes that leasing options are a financial incentive.

(18) *wherein information about the virtual bundle of items is posted on a server* (see at least: Silva, 0025-0026, Fig. 1 and 4).

Regarding claims 21-22, Henson in view of Silva in further view of PTO 892 U further teaches:

(21) *an interface circuit configured to establish a connection with a remote computer system* (see at least: Henson, Fig. 1-10).

(22) *wherein the means for posting information is included within a server on which information about the available items is stored* (see at least: Henson, Fig. 1-2; Silva, 0025-0026, Fig. 1 and 4).

3. Claims 10-14, 19, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson in view of Silva in further view of PTO 892 U, as applied to claims 1-9, 15-18, 20-22, and 26 above, and further in view of Andrews (6,285,986).

Regarding claim 10, Henson in view of Silva in further view of PTO 892 U teaches all of the above as noted and further teaches *wherein information about the items available from the first vendor for inclusion in a virtual bundle is posted on a server* (see at least: Silva, 0025-0026, Fig. 1 and 4). Henson in view of Silva in further view of PTO 892 U, however, does not expressly teach establishing an internet connection with the server *for the second vendor to view and select the items available for inclusion within the items offered to a consumer for purchase as a virtual bundle of items*. Andrews teaches an internet connection *for the second vendor to view and select the items available for inclusion within the items offered to a consumer for purchase as a virtual bundle of items* (see at least: abstract, Fig. 3-5a, col. 5 lines 1-50). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson in view of Silva in further view of PTO 892 U to have included *for the second vendor to view and select the items available for inclusion within the items offered to a consumer for purchase as a virtual bundle of items* as taught by Andrews in order to provide a system for automated registration, negotiation, and marketing for combining products and services from one or more vendors together to be sold as a unit to automate the promotion and sale of product groups/bundles (see at least: Andrews, abstract, col. 1 lines 25-29).

Regarding claims 11-13, Henson in view of Silva in further view of PTO 892 U further teaches:

(11) *wherein the second vendor receives a financial incentive each time a consumer purchases a virtual bundle of items in a single market basket transaction* (see at least: Henson, col. 4 lines 36-52, col. 10 lines 7-18). The Examiner notes that the selling vendor receives the incentive as in claim 8 for each purchase made.

(12) *wherein information about the market basket transaction is collected, stored and transferred for processing and validation* (see at least: Henson, col. 4 line 66-col. 5 line 5, col. 6 lines 31-38 and 44-67, col. 7 lines 36-48).

(13) *wherein the information is processed on a server* (see at least: Henson, Fig. 1-2; Silva, 0025-0026, Fig. 1 and 4).

Regarding claim 14, Henson in view of Silva in further view of PTO 892 U teaches all of the above as noted but does not expressly teach *wherein reports comprising information about the virtual bundle of items purchased by the consumer are generated and provided to the first vendor and the second vendor*. Andrews teaches *wherein reports comprising information about the virtual bundle of items purchased by the consumer are generated and provided to the first vendor and the second vendor* (see at least: Fig. 1, 8, abstract, col. 6 lines 35-36, col. 12 line 8-col. 13 line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson in view of Silva in further view of PTO 892 U to have included *wherein the information is processed on a server and wherein reports comprising information about the virtual bundle of items purchased by the consumer are*

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generated and provided to the first vendor and the second vendor as taught by Andrews in order to provide a system for automated registration, negotiation, and marketing for combining products and services from one or more vendors together to be sold as a unit to automate the promotion and sale of product groups/bundles (see at least: Andrews, abstract, col. 1 lines 25-29).

Regarding claim 19, Henson in view of Silva in further view of PTO 892 U teaches all of the above as noted and further teach *wherein information about the items available from the first vendor for inclusion in a virtual bundle is posted on a server* (see at least: Silva, 0025-0026, Fig. 1 and 4). Henson in view of Silva in further view of PTO 892 U, however, does not expressly teach establishing an internet connection with the server *for the second vendor to view and select the items available for inclusion within the items offered to a consumer for purchase as a virtual bundle of items*. Andrews teaches an internet connection *for the second vendor to view and select the items available for inclusion within the items offered to a consumer for purchase as a virtual bundle of items* (see at least: abstract, Fig. 3-5a, col. 5 lines 1-50). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson in view of Silva in further view of PTO 892 U in further view of Myr to have included *for the second vendor to view and select the items available for inclusion within the items offered to a consumer for purchase as a virtual bundle of items* as taught by Andrews in order to provide a system for automated registration, negotiation, and marketing for combining products and services from one or more vendors together to be sold as a unit to

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automate the promotion and sale of product groups/bundles (see at least: Andrews, abstract, col. 1 lines 25-29).

Regarding claims 23-24, Henson in view of Silva in further view of PTO 892 U teaches all of the above and further teaches *providing information from a first vendor to a second vendor about items available from the first vendor that are available for inclusion within items offered by the second vendor to a consumer for purchase at retail as a virtual bundle of items* (see at least: Henson, Fig. 3A-5; Silva, 0025-0026). Henson in view of Silva in further view of PTO 892 U, however, does not expressly teach *wherein a connection is established to view, select and accept information about the offer from the first vendor where only registered with the server as authorized users are allowed to view, select and accept information*. Andrews teaches *wherein a connection is established to view, select and accept information about the offer from the first vendor where only registered with the server as authorized users are allowed to view, select and accept information* (see at least: abstract, col. 3 lines 32-40, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson in view of Silva in further view of PTO 892 U to have included *wherein a connection is established to view, select and accept information about the offer from the first vendor where only registered with the server as authorized users are allowed to view, select and accept information* as taught by Andrews in order to provide a system for automated registration, negotiation, and marketing for combining products and services from one or more vendors together to be sold as a unit to automate the promotion and sale of product groups/bundles (see at least: Andrews, abstract, col. 1 lines 25-29).

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Regarding claim 25, Henson in view of Silva in further view of PTO 892 U teaches all of the above and further teaches providing information from a first vendor to a second vendor about items available from the first vendor that are available for inclusion within items offered by the second vendor to a consumer for purchase at retail as a virtual bundle of items (see at least: Henson, Fig. 3A-5; Silva, 0025-0026). Henson in view of Silva in further view of PTO 892 U, however, does not expressly teach wherein the server and at least one remote computer system are coupled together over the Internet to allow the user of the remote system to view, select and accept information relating to the offer. Andrews teaches wherein the server and at least one remote computer system are coupled together over the Internet to allow the user of the remote system to view, select and accept information relating to the offer (see at least: abstract, col. 3 lines 32-40, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Henson in view of Silva in further view of PTO 892 U to have included wherein the server and at least one remote computer system are coupled together over the Internet to allow the user of the remote system to view, select and accept information relating to the offer as taught by Andrews in order to provide automate promotion and sale by combining products from multiple vendors to be sold as a group/bundle (see at least: Andrews, abstract, col. 1 lines 25-29).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
August 28, 2007


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